



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 17, 1998

Ms. Sharon Alexander
Staff Attorney
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR98-1695

Dear Ms. Alexander:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 117185.

The Texas Department of Health (the "department") received two open records requests from recipients of Medicaid benefits for documents reflecting the amount or type of benefits received by each respective requestor. You inquire whether the requested documents must be withheld from the respective requestors pursuant to section 552.101 of the Government Code.

This office has previously addressed this issue in two prior open records letters, Open Records Letter Nos. 98-1319 (1998) and 98-0802 (1998). Those two rulings govern your current request. Because you have not demonstrated that section 12.003 of the Human Resource Code is intended to protect any interest other than the privacy interests of Medicaid clients, we conclude that recipients of Medicaid benefits have a special right of access to their respective records pursuant to section 552.023 of the Government Code and that the department therefore must release the requested information.

You also ask that this office issue a "previous determination" ruling on this issue, authorizing the department to release similar information under similar circumstances without having to request a decision from this office. Section 552.301(a) of the Government Code provides in pertinent part:

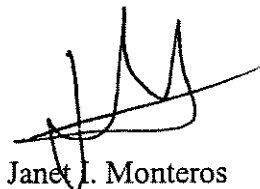
A governmental body that receives a written request for information *that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions under Subchapter C* must ask for a decision from the attorney general about whether the

information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions.

In light of the open records rulings cited above, it is not clear to this office why the department "wishes to withhold" Medicaid information from Medicaid recipients or why the department believes that the requestors do not have a special right of access to their respective Medicaid information. Section 552.301 requires a governmental body to request a decision from this office *only* when it believes that requested information comes within one of the act's exceptions to required public disclosure. If a governmental body does not believe that one of the act's exceptions apply to requested information, it should simply release the information without requesting a decision from this office.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'J. Monteros', with a horizontal line drawn through the middle of the signature.

Janet J. Monteros
Assistant Attorney General
Open Records Division

JIM/RWP/nc

Ref.: ID# 117185

Enclosures: Submitted documents

¹Of course, if the department wishes to submit new arguments for withholding Medicaid information from recipients, we will consider those arguments at that time.